IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

CRL.A.No. 1232 of 2003()

CC.1789/2000 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM

APPELLANT: COMPLAINANT

M/S.SHANCO, KASIM LANE, KALOOR P.O.,
KOCHI - 17 REP. BY ITS PROPRIETOR
SHAJI MATHEW.

BY ADV. SRI.T.KURIAKOSE PETER

RESPONDENTS: ACCUSED AND STATE

1. K.MOHAMMED RAFEEQUE,
M/S.DANDY READY-MADES,
THALIPARAMBU, KANNUR
DISTRICT.

2. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.1232 of 2003

Dated this the 6th day of November, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 3.12.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl